

TENTATIVE RULINGS for CIVIL LAW and MOTION October 22, 2009

Pursuant to Yolo County Local Rules, the following tentative rulings will become the order of the court unless, by 4:00 p.m. on the court day before the hearing, a party requests a hearing and notifies other counsel of the hearing. To request a hearing, you must contact the clerk of the department where the hearing is to be held. Copies of the tentative rulings will be posted at the entrance to the courtroom and on the Yolo Courts Website, at www.yolo.courts.ca.gov. If you are scheduled to appear and there is no tentative ruling in your case, you should appear as scheduled.

Telephone number for the clerk in Department Fifteen: (530) 406-6942

TENTATIVE RULING

Case: Barrow v. Aspen Pest Management
Case No. CV PO 09-662
Hearing Date: October 22, 2009 Department Fifteen 9:00 a.m.

Tandem Properties, Inc.'s motion for judgment on the pleadings is taken off calendar. The complaint against Tandem Properties, Inc. was dismissed on October 13, 2009.

TENTATIVE RULING

Case: Garabedian v. JC Produce, LLC
Case No. CV CV 08-2826
Hearing Date: October 22, 2009 Department Fifteen 9:00 a.m.

David Cohen and Cohen Durrett, LLP's unopposed motion to be relieved as counsel of record for defendants AG Logistics, LLC and Club Fresh, LLC is **DENIED WITHOUT PREJUDICE**. Items 3 through 6 of the declaration of David Cohen must be completed. For example, the declaration does not state facts showing that either: (1) the service address for the defendants is the current residence or business address for the defendants; or (2) the service address is the last known residence or business address for the defendants and the attorney has been unable to locate a more current address after making reasonable efforts to do so within 30 days before the filing of the motion to be relieved. (Cal. Rules of Court, rule 3.1362(d).)

Items 2 through 6 of the proposed order must be completed. Item 1 of the proposed order references Steven Roeser. Mr. Roeser is not the moving attorney.

If the above deficiencies are corrected, an order granting David Cohen and Cohen Durrett, LLP's motion to be relieved as counsel of record for AG Logistics, LLC and Club Fresh, LLC will not be effective until a proof of service is filed with the Court showing service of a copy of the signed order on the clients. (Cal. Rules of Court, rule 3.1362(e).) Counsel must serve the clients with a copy of the signed order within five (5) days of the date of the Court's order.

TENTATIVE RULING

Case: JPMorgan Chase Bank, National Assoc. v. Reyniel
Case No. CV UD 09-1439
Hearing Date: October 22, 2009 Department Fifteen 9:00 a.m.

The request for judicial notice is **GRANTED**. (Evid. Code, § 452, subd. (d).)

Plaintiff's unopposed motion for summary judgment is **GRANTED**. (Code Civ. Proc., § 1170.7.) Plaintiff has established each element of its unlawful detainer cause of action. (Declaration of Earl Wallace ¶¶ 2-5 and exhibits thereto; Declaration of Hector Lopez ¶¶ 1-3; Declaration of Oleg Khrystov ¶¶ 1-2 and exhibit thereto.) Plaintiff is entitled to possession of the subject premises.

Plaintiff shall serve the defendants with notice of this ruling by no later than October 26, 2009.

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice, except as provided herein, is required.

TENTATIVE RULING

Case: In re claim of Durbert Lewis
Case No. CV PT 09-2586
Hearing Date: October 22, 2009 Department Fifteen 9:00 a.m.

The Claimant and the People are directed to appear to advise the Court of any related, pending criminal action and whether it is appropriate for the claimant to proceed under Health and Safety Code sections 11469 *et seq.* No request for hearing is required.

TENTATIVE RULING

Case: Paik v. Treon et al.
Case No. CV PT 09-320
Hearing Date: October 22, 2009 Department Fifteen 9:00 a.m.

Plaintiffs' motion to allow limited discovery is **DENIED WITHOUT PREJUDICE**. (Code Civ. Proc., § 425.16, subd. (g); *The Garment Workers Center v. Superior Court* (2004) 117 Cal.App.4th 1156, 1161-1163.) Plaintiffs contend that "After receiving the motions, Plaintiffs' counsel conducted an initial review of the arguments and defenses and determined that discovery was needed due to the assertion of defenses of advice of counsel and lack of malice." (Dec. of Fairbrook, ¶¶ 3-5.) If after the briefing and arguments on the SLAPP motion, the Court determines that plaintiffs have a reasonable probability of success on the merits of the malicious prosecution action [lack of probable cause], it may consider issuing a discovery order limited to the issue of malice.

Plaintiffs' request to continue the SLAPP motions set for November 19, 2009, is **DENIED**.

Defendants Michael Walla, James V. Nolan, and Gardner, Janes, Nakken, Hugo & Nolan's requests for Judicial Notice are **GRANTED**. (Evid. Code, § 452.)

If no hearing is requested, the tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice is required.

TENTATIVE RULING

Case: **People v. \$1,307.00 (Pedro De la Torre)**
Case No. CV PT 09-2667

Hearing Date: **October 22, 2009** **Department Fifteen** **9:00 a.m.**

The People are directed to appear and advise the Court if Yolo Superior Court Case No. CR F 09-3945 is the related criminal action and whether they intend to file a petition for forfeiture. A judgment of forfeiture against the claimant requires, as a condition precedent thereto, that a defendant be convicted in an underlying or related criminal action of an offense specified in section 11470, subdivision (f) which offense occurred within five years of the seizure of the property subject to forfeiture or within five years of the notice of intent to seek forfeiture. (Health and Safety Code, § 11488.4, subd. (i)(3).) This matter must be tried in conjunction with the related criminal action. (Health and Safety Code, § 11488.4, subds. (i)(3) and (i)(5).)

TENTATIVE RULING

Case: **Saephanh v. Brewer**
Case No. CV CV 07-204

Hearing Date: **October 22, 2009** **Department Fifteen** **9:00 a.m.**

Defendant Keith F. Brewer's unopposed motion to compel the plaintiff to sign the authorization for records form prepared by the defendant is **DENIED WITHOUT PREJUDICE**. Defendant does not specify the discovery method at issue. If the defendant is attempting to seek the disclosure of medical records from Kaiser Rancho Cordova through a subpoena, it has not been shown that the defendant complied with the requirements of Code of Civil Procedure section 1985.3. Additionally, the authorization form attached to Exhibit H to the Declaration of Susan Riggio seeks all "medical information" and "psychiatric information" concerning the plaintiff from "any and all dates." It has not been shown that the plaintiff has placed in controversy all of her "medical information" and "psychiatric information" from "any and all dates." (*Tylo v. Superior Court of Los Angeles County* (1997) 55 Cal.App.4th 1379, 1388.)

Defendant Keith F. Brewer's unopposed motion to compel responses to his supplemental interrogatory, set no. one, demand for production of documents, set no. two, and supplemental demand for production of documents, set no. one to Linda Saephanh is **GRANTED**. (Code Civ. Proc., §§ 2030.290, subd. (b) and 2031.300, subd. (b).) Plaintiff shall provide verified responses to the above-listed discovery requests, without objection, by no later than November 9, 2009. Defense counsel shall serve a copy of this ruling on counsel for the plaintiff by no later than October 26, 2009.

The unopposed motion for monetary sanctions against the plaintiff is **GRANTED** in the amount of \$465.00. (Cal. Rules of Court, rule 3.1030.)

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice, other than as provided herein, is required.

TENTATIVE RULING

Case: **West Coast Relocatables Inc. v. Allen L. Bender, Inc.**
Case No. CV CV 02-1427

Hearing Date: **October 22, 2009** **Department Fifteen** **9:00 a.m.**

Allen L. Bender, Inc.'s motion for sanctions against Washington Unified School District ("WUSD") and Cheri D. Love is **DENIED**. A request for reconsideration based on the court's inherent authority to reconsider its own orders need not be based on new facts, law or circumstance. The court cannot conclude, from the record presented, that WUSD or Ms. Love sought reconsideration in bad faith or for an improper purpose.

If no hearing is requested, the tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice is required.